

TENNESSEE REAL ESTATE COMMISSION MINUTES
August 13, 2008

The Tennessee Real Estate Commission convened on August 13, 2008, at 9:09 a.m., in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee. **The following Commission Members were present: Chairman Charles Haynes, Vice Chairman William "Bear" Stephenson, Commissioner Valerie Joh, Commissioner Allen Woods, Commissioner David Flitcroft, Commissioner Wendell Alexander, Commissioner Grover Collins and Commissioner Isaac Northern. Commissioner Carol Tate was absent. Others Present: Eve Maxwell, Executive Director, Kathryn Wiseman, Assistant General Counsel, and Kelly McDermott, Administrative Secretary.**

The first order of business was the adoption of the agenda (**Exhibit 1**) for the August 2008 Commission meeting. Chairman Haynes wished to add to the agenda an introduction of the Commission and staff to newly appointed Commissioner Allen Woods. **Commissioner Alexander made a motion to adopt the amended August 2008 agenda; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**

The next order of business was the approval of the minutes from the July 2008 meeting (**Exhibit 2**). **Commissioner Alexander made a motion to approve the July 2008 minutes; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**

The Commissioners and staff introduced themselves to newly appointed Commissioner Allen Woods.

LICENSEE/APPLICANT REQUESTS

Christopher Sutton, candidate for affiliate broker, appeared with his Principal Broker John Carr to request a waiver of the required 90 day waiting period to retest for the fourth time. **Commissioner Collins made a motion to approve Mr. Sutton's request; seconded by Commissioner Alexander; vote: 6 yes, 2 no; motion carried.**

EXECUTIVE DIRECTOR'S REPORT, EVE MAXWELL, EXECUTIVE DIRECTOR

Ms. Maxwell presented the following information to the Commission for review:

- **Complaint Statistics Report (Exhibit 3)** – TREC has a total of **441** open complaints. Two of the 441 open complaints are staff generated Agreed Citations and 20 are complaints against Principal Brokers pursuant to Policy # 07-002 [Errors & Omissions Insurance]. There are 7 new complaints since the July meeting. There are 432 complaints in the legal department and 9 open complaints in the TREC office awaiting response. The total number of closed complaints for the current Fiscal Year 2008-2009 is 16. Total Civil Penalties paid in May were \$26,192.00.

- **Licensing Statistics** – Ms. Maxwell presented statistics (**Exhibit 4**) to the Commission on real estate licenses approved in 2008 and the number of licensees as of August 5, 2008. As of August 5, 2008, there were 33,584 active licensees, 2,130 inactive licensees and 9,695 retired licensees. There were 4,715 active firms and 303 retired firms. There were 354 new applications approved in July 2008. Ms. Maxwell also presented a chart detailing the number of licensees who have reinstated since the implementation of the new reinstatement policy.
- **Response from schools regarding pass/fail ratios** – Ms. Maxwell presented the Commission with a synopsis of letters received from schools regarding their pass/fail rates on the real estate examination. There was discussion of strategic plans such as school visits and seminars to help the schools improve their rates.
- Ms. Maxwell gave the Commissioners an update on the production and distribution of the new TREC law manuals. She explained the manuals should be ready for distribution in the fall.
- Ms. Maxwell updated the Commission on the RFP for Errors & Omissions Insurance.
- Ms. Maxwell briefly updated the Commission on the move of the Regulatory Boards to the Andrew Johnson Tower and the renovation of the Davy Crockett Tower.
- Ms. Maxwell briefly addressed the Voluntary Buyout Program.

Chairman Haynes requested the agenda be sent out to the Commissioners at least 10 days prior to meeting.

EDUCATION REPORT, DR. KATHY RIGGS, EDUCATION DIRECTOR

- Dr. Riggs presented *Courses for Commission Evaluation* (**Exhibit 5**). **Commissioner Flitcroft made a motion to approve the *Courses Presented for Commission Evaluation*; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**
- Dr. Riggs presented the *Course Requiring Discussion* (**Exhibit 5**), "Feng Shui for Real Estate Agents II (CR)". **Commissioner Collins made a motion to defer; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.**
- Dr. Riggs presented the Courses Requiring Discussion (**Exhibit 5**), "Tax Write-Offs for the Self Employed" and "Solid Investment & Strategies (CR)". **Commissioner Northern made a motion to approve; seconded by Commissioner Flitcroft; unanimous vote; motion carried.**
- Dr. Riggs presented the Course Requiring Discussion (**Exhibit 5**), "Introduction to Traditional Neighborhood Development". **Commissioner Joh made a motion to approve; seconded by Commissioner Northern; unanimous vote; motion carried.**
- Dr. Riggs presented a request for instructor approval for Chad Taylor to teach the continuing education course, "Enhancing Customer Service by Utilizing Public Records (Course #3552)". **Vice-Chairman Stephenson made a motion to**

approve; seconded by Commissioner Alexander; unanimous vote; motion carried.

J.A. Bucy, Director of Governmental Affairs of TAR, addressed the Commission briefly about the number of members now belonging to TAR.

DISCUSSION OF POTENTIAL RULE AND/OR STATUTORY CHANGES

Ms. Wiseman, Assistant General Counsel, provided the Commission with a flow chart detailing the Rule Making Process. Potential rule and statutory changes were briefly discussed such as implementing an apprentice program and changes to the TREC Core class.

Chairman Haynes recessed the meeting for lunch at 11:25 a.m. and the meeting reconvened at 1:05 p.m.

Steve Majchrzak, Assistant Commissioner of Regulatory Boards, addressed the Commission regarding the Rule Making Process and the move of the Regulatory Board's division to the Andrew Johnson building.

Chairman Haynes requested a list of previously discussed potential rule changes be presented at the September meeting.

Legal Report, Kathryn Wiseman, Staff Attorney (Exhibit 10)

The following complaints (1 – 3) are based on Commission disputes:

- 1) 2006035191**
- 2) 2007062141**
- 3) 2007048061**

The following complaints (4-14) allege no violation of the Broker Act:

- 4) 2007061481**
- 5) 2007060921**
- 6) 2007047821**
- 7) 2007048691**
- 8) 2007048692**
- 9) 2007051181**
- 10) 2007051182**
- 11) 2007066431**
- 12) 2007066432**
- 13) 2007066433**
- 14) 2007066434**

Commissioner Flitcroft made a motion to dismiss complaint numbers 1-14; seconded by Commissioner Joh; opened to discussion; unanimous vote; motion carried.

- 15) 2006036771 &
16) 2006036772 - Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Alexander; unanimous vote; motion carried.
- 17) 2006044921 &
18) 2006044922 &
19) 2006044923 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.
- 20) 2006029611 - Commissioner Flitcroft made a motion to defer the complaint until Commissioner Carol Tate was present since she had previously reviewed the case; seconded by Commissioner Northern; unanimous vote; motion carried.
- 21) 2006038561 – Commissioner Northern had previously reviewed the complaint. He recommended a Letter of Warning. Vice-Chairman Stephenson made a motion to issue a Letter of Warning; seconded by Commissioner Collins; Vote: 6 yes, Commissioner Northern abstained; motion carried.
- 22) 2007081071 – Commissioner Northern had previously reviewed the complaint. Commissioner Alexander made a motion to deny any kind of license, affiliate broker or broker, to the respondent; seconded by Commissioner Northern; Vote: 6 yes, Commissioner Northern abstained; motion carried. After discussion, it was decided the respondent was not an applicant but a licensee, therefore Commissioner Alexander rescinded his motion; Commissioner Northern rescinded the second; Commissioner Alexander made a motion to issue a consent order for revocation with a civil penalty of \$1500.00 or the respondent may appear for a Formal Hearing; seconded by Commissioner Flitcroft; Vote: 6 Yes; Commissioner Northern abstained; motion carried.
- 23) 2006037181 – Commissioner Flitcroft made a motion to send a Letter of Warning and issue a Consent Order requiring the respondent to within six months attend eight hours of education at a Commission meeting or alternately eight hours of education in contract writing; seconded by Commissioner Northern; unanimous vote; motion carried.
- 24) 2006037861 &
25) 2006037862 &
26) 2006037863 – Commissioner Woods made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.
- 27) 2006037881 – Vice-Chairman Stephenson made a motion to close with no action; seconded by Commissioner Joh; unanimous vote; motion carried.
- 28) 2006040741 &
29) 2006040742 – Commissioner Flitcroft made a motion to issue a Consent Order to the affiliate broker with a civil penalty of \$1,000.00 and requiring 16

hours of contract writing courses; seconded by Commissioner Collins; unanimous vote; motion carried.

30) 2006035951 &

31) 2006035952 – Commissioner Northern made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.

32) 2006035491 &

33) 2006035492 &

34) 2006035493 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.

35) 2007055361 – Commissioner Joh made a motion to close the complaint and flag the file for reapplication; seconded by Commissioner Collins; opened to discussion; unanimous vote; motion carried.

36) 2006036391 – Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.

37) 2007061931 – Commissioner Northern made a motion to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.

38) 2006033651 – Vice-Chairman Stephenson made a motion to dismiss; seconded by Commissioner Northern; unanimous vote; motion carried.

39) 2006038621 – Commissioner Alexander made a motion to dismiss; seconded by Commissioner Collins; opened to discussion; Commissioner Alexander withdrew his motion; Commissioner Collins withdrew his second; Commissioner Northern made a motion to issue a Cease and Desist letter and a Consent Order requiring the respondent to attend eight hours of education at a Commission meeting; seconded by Commissioner Woods; unanimous vote; motion carried.

40) 2007058821 &

41) 2007058822 – Commissioner Flitcroft made a motion to dismiss the complaint against the firm, initiate a complaint against the principal broker, and issue a Consent Order to the affiliate broker with a civil penalty of \$800.00 and requiring eight hours of continuing education in ethics; seconded by Vice-Chairman Stephenson; opened to discussion; Commissioner Collins made a motion to amend the motion to reduce the civil penalty to the affiliate broker to \$250.00 and require eight hours of continuing education in ethics; seconded by Commissioner Joh; vote on amendment: 5 yes, 3 no; vote on motion as amended: 5 yes, 3 no; motion as amended carried. Commissioner Alexander made a motion to open a complaint against the principal broker; seconded by Vice-Chairman Stephenson; vote: 6 yes, 2 no; motion carried.

42) 2006037601 – Commissioner Collins made a motion to dismiss; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.

43) 2006030661 &

44) 2006030662 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Woods; unanimous vote; motion carried.

45) 2007057981 – Commissioner Collins made a motion to close the complaint with Letter of Warning; seconded by Commissioner Joh; unanimous vote; motion carried.

46) 2007079001 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Northern; unanimous vote; motion carried.

47) 2006029741 &

48) 2006029742 – Commissioner Joh made a motion to close the complaint with a Letter of Warning; seconded by Vice-Chairman Stephenson; unanimous vote; motion carried.

49) 2007080461 &

50) 2007080462 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Northern; opened to discussion; Vote: 7 yes, 1 no, motion carried.

51) 2006043751 - Commissioner Joh made a motion to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.

52) 2007057291 – Commissioner Collins made a motion to dismiss; seconded by Commissioner Joh; unanimous vote; motion carried.

53) 2007079361 – Commissioner Flitcroft made a motion to dismiss; seconded by Commissioner Collins; unanimous vote; motion carried.

54) 2008013251 – Commissioner Joh made a motion to issue a Consent Order with civil penalty of \$1,000.00 and flag the file for reapplication; seconded by Commissioner Woods; opened to discussion; unanimous vote; motion carried.

Ms. Wiseman reviewed with the Commission the Consent Order Log and the Legal File Review.

COMMISSIONER REPORTS

Commissioner Joh, Commissioner Flitcroft, Commissioner Woods, Commissioner Alexander, Chairman Haynes, Vice-Chairman Stephenson, Commissioner Collins and Commissioner Northern gave reports on issues of concern to them and the Commission.

COMMENTS FROM ATTENDEES

Chairman Haynes called for comments from the attendees.

Licensees who attended the Commission meeting in order to obtain continuing education credits appeared before the Commission and gave statements regarding what they had learned from the meeting.

Chairman Haynes adjourned the meeting August 13, 2008 at 4:35 p.m.